

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BARBARA ROCKMORE,

Plaintiff,

-against-

DARRICK E. ANTELL,
DARRICK E. ANTELL, M.D., D.D.S., P.C.,
DARRICK E. ANTELL, M.D., F.A.C.S and
DARRICK E. ANTELL, M.D., F.A.C.S., P.C.,

Defendants.

Case No.: 07-CV-3592

**DECLARATION OF DARRICK E.
ANTELL, M.D., DDS**

I, Darrick E. Antell, M.D., DDS, hereby declare and state under penalty of perjury:

1. Plaintiff Barbara Rockmore, in her Amended Complaint, has lodged a variety of repugnant and frankly defamatory statements concerning my conduct. While I vociferously deny those allegations, at this time I submit this Declaration simply to provide information concerning the validity of the Release that Ms. Rockmore executed, in support of Defendants' Motion to Dismiss.
2. In connection with a government tax investigation into the corporation, Darrick E. Antell, MD, DDS, PC, I agreed to pay any counsel fees that Ms. Rockmore might incur in connection with that investigation. In this regard, and at issue in this matter, I received an invoice for legal services provided by Ms. Rockmore's chosen counsel, the law firm of Arkin Kaplan. This invoice was for \$3,066.25, and was paid by check dated July 22, 2004. Ms. Rockmore, as my office manager, cut this check and entered it into our accounts payable system. While Ms. Rockmore speculates that I must have "embargoed" the check for this payment based on the fact that the Arkin

Kaplan law firm did not deposit this check until Monday, August 2, 2004, this speculation has no factual basis. My understanding is that this check was sent out, along with 20 other checks that were cut that day, on July 22, 2004. I do not know why Arkin Kaplan did not deposit this check until August 2nd, but I did not place a hold on this check, as Ms. Rockmore asserts.

3. At the time of Ms. Rockmore's resignation, she was a participant in my office's 401(k) and Profit Sharing plan (the "Plan"). While Ms. Rockmore asserts that I administered this Plan, in fact all administration was handled by Pension Innovations, a third-party administrator. Within weeks of Ms. Rockmore's resignation, notice of her intent to roll over all of her pension funds was received. These funds were rolled over to another account on August 17, 2004, at which point her Plan account was closed, as she no longer had any retirement funds invested in the Plan. A copy of Ms. Rockmore's rollover request, dated August 3, 2004, concerning is annexed hereto, as well as the statement demonstrating this rollover.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 17th day of June, 2007, in New York, New York.



Darrick E. Antell, MD, DDS

**Darrick E. Antell, M.D., D.D.S., P.C. Profit Sharing Plan
Participant Distribution Election Form**

Name: Barbara Rockmore Social Security #: _____
 Address: 200 W. 79 ST. #2K Date of Birth: 02/18/1951
 City: NEW YORK State: NY Zip: 10024 Date of Separation: 07/29/2004

Due to your separation, you qualify for a benefit distribution from your retirement plan. You may elect to receive your retirement benefit in one of the forms detailed below. Please select only one option below.

☐ Lump Sum Distribution

A single payment equivalent to your vested accrued benefit earned to date of separation. A single sum cash settlement discharges all plan obligations to you. The exact single sum payable to you will depend on the exact surrender value of your account as of the date surrendered, and may vary from that below due to market fluctuation and any applicable surrender fees. The approximate single sum total available to you equals \$ 37,999.49

☒ Rollover to an Individual Retirement Account (IRA) or other Qualified Plan:

A single payment equivalent to your vested accrued benefit earned to date directly transferred to another qualified plan or Individual Retirement Account (IRA). The approximate value of the rollover equals the value indicated above in the Lump Sum Distribution Option. If you select this option you must complete the information below with respect to the receiving qualified plan or IRA account:

Plan Name (If IRA, put "IRA"):

Rollover IRA

Three Digit Plan Number (N/A if IRA):

N/A

Name of Plan Trustee or IRA Custodian:

FIDELITY INVESTMENTS

Mailing Address:

350 Park Avenue
N.Y., N.Y. 10022

Account Number:

Plan or IRA Contact Person:

Contact's Telephone Number:

212-371-2327

Additional Information:

☐ Deferred Benefit

You may elect to maintain your balance in the plan until the later of your Normal Retirement Date or age 62. Your account will be adjusted to reflect investment performance. At your subsequent direction, your account will be distributed under one of the options outlined above based upon the account value at that time.

I have read the above information and elect to receive my benefit payable in the form elected above. I certify that I have received the enclosed Special Tax Notice Regarding Plan Payments. I also understand that I have the right to consider the decision of whether or not to elect a direct rollover for at least 30 days after receipt of this notice.

EXECUTED this 30th day of August, 2004.

Barbara Rockmore
Signature of Participant

S. Arrata
Signature of Plan Administrator or Notary Public

Simon A. ARRATA
Printed Name of Notary Public

State of New York

County of New York

My Commission Expires 3/7/07

SIMON A. ARRATA
Notary Public, State of New York
No. 02AR5038828
Qualified in Kings County
Commission Expires 3/7/07

CONSENT OF SPOUSE

I, the undersigned, being the spouse of the plan participant whose signature appears above, do hereby consent to the foregoing distribution election. I understand and acknowledge that as a result of this consent, I will not receive any benefits payable under the plan except to the extent specifically provided for above.

EXECUTED this _____ day of _____, _____

Signature of Spouse

Signature of Plan Administrator or Notary Public

Printed Name of Notary Public

State of _____

County of _____

My Commission Expires _____

I certify to the best of my knowledge that the above participant is not married or considered to be married under any common law agreement.

Signature of Plan Representative

Please return this form to:

Pension Innovations & Consulting, LLC
Attn: Chris Koby
2254 Centennial Road
Toledo, OH 43617

Envelope 235126206

PROBATION DEPARTMENT

**Online
FAST(sm)-Automated Telephone
Preferred Services**

**Fidelity.com
800-544-5555
800-544-6565**

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DARRICK E ANTELL - TRUSTEE - DARRICK E ANTELL MD DDS PC 401K PENSION AND PS PLAN FOR THE BENEFIT OF [REDACTED]

Income Summary

18.22

Roll over to
Fidelity
IRA Account

Transaction Details
(for holdings with activity this period)


FIDELITY PREFERRED SERVICES™

Envelope 235126206

 DARRICK E ANTELL MD DDS PC
 BARBARA ROCKMORE
 PO BOX 852
 NEW YORK NY 10021-0002

2004 Investment Report

January 1, 2004 - December 31, 2004

 Online
 FAST (sm)-Automated Telephone
 Preferred Services
 Fidelity.com
 800-544-5555
 800-544-6565

► Your 2004 Investment Report summarizes activity in your Fidelity accounts for the past year. In order to provide better tax preparation service to our customers, your realized gains/loss information, cost basis information, and tax-exempt income from Fidelity Funds information are consolidated on Form(s) 1099. You will receive your Form(s) 1099 and your IRA summary statement, Form 5498, under separate cover.

Fidelity Funds Non-Prototype 28T-687529

 DARRICK E ANTELL - TRUSTEE - DARRICK E ANTELL MD DDS PC 401K PENSION
 AND PS PLAN FOR THE BENEFIT OF BARBARA ROCKMORE

2004 Account Summary

 Beginning value as of Jan 1 \$37,999.49
 Additions 11,861.26
 Transfers between Fidelity accounts -48,588.11
 Change in investment value -1,272.64
 Ending value as of Dec 31 \$0.00

Income Summary

Tax-deferred

\$0.22

Holdings as of Dec 31, 2004	Dollar-Fund Number	% of Holdings	Income Earned	Share as of Dec 31, 2004	Price per Share Dec 31, 2004	Total Value Dec 31, 2004
Total income earned on positions no longer held			\$ 8.22			
Total 2004 Income Earned			\$ 8.22			

Transaction Details

(for holdings with activity this period)

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2004 Investment Report

January 1, 2004 - December 31, 2004

FIDELITY PREFERRED SERVICES™

Fidelity Funds Non-Prototype 28T-687529 **DARRICK E ANTELL - TRUSTEE - DARRICK E ANTELL MD DDS PC 401K PENSION**
AND PS PLAN FOR THE BENEFIT OF BARBARA ROCKMORE

Activity	Date	Description	Shares	Price per Share	Transaction Amount	Total Value
FIDELITY CASH RESERVES						
	1/1	BEGINNING BALANCE	257.130	\$1.00		\$257.13
	1/30	DIVIDEND RECEIVED			\$0.17	
	1/30	Reinvestment	0.170	1.00	0.17	
	2/27	DIVIDEND RECEIVED			0.16	
	2/27	Reinvestment	0.160	1.00	0.16	
	3/31	DIVIDEND RECEIVED			0.17	
	3/31	Reinvestment	0.170	1.00	0.17	
	4/30	DIVIDEND RECEIVED			0.16	
	4/30	Reinvestment	0.160	1.00	0.16	
	5/28	DIVIDEND RECEIVED			0.17	
	5/28	Reinvestment	0.170	1.00	0.17	
	6/30	DIVIDEND RECEIVED			0.16	
	6/30	Reinvestment	0.160	1.00	0.16	
	7/30	DIVIDEND RECEIVED			0.20	
	7/30	Reinvestment	0.200	1.00	0.20	
	8/10	PURCHASE	11,861.260	1.00	11,861.26	
		CHECK RECEIVED				
	8/17	DIVIDEND RECEIVED			2.63	
	8/17	Reinvestment	2.630	1.00	2.63	
	8/17	Transferred TO	-12,119.590	1.00	-12,119.58	
		480-985711				
	8/17	Transferred TO	-2.630	1.00	-2.63	
		480-985711				
	12/31	ENDING BALANCE				\$0.00
FIDELITY CONTRAFUND						
	1/1	BEGINNING BALANCE	440.220	49.35	4.40	\$21,724.86
	2/8	DIVIDEND RECEIVED			4.40	
	2/8	Reinvestment	0.087	50.29	4.40	

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FIDELITY PREFERRED SERVICES™

2004 Investment Report

January 1, 2004 - December 31, 2004

Fidelity Funds Non-Prototype 2B1-687529

DARRICK E ANTTELL - TRUSTEE - DARRICK E ANTTELL MD DDS PC 401K PENSION
AND PS PLAN FOR THE BENEFIT OF BARBARA ROCKMORE

Transaction Details

Activity	Date	Description	Shares	Price per Share	Transaction Amount	Total Value
FIDELITY GROWTH COMPANY	8/17	Transferred TO	-440.307	48.74	-21,460.56	
		480-885711				
	12/31	ENDING BALANCE				\$0.00
FIDELITY AGGRESSIVE GROWTH	1/1	BEGINNING BALANCE	168.793	50.07		\$8,451.47
	8/17	Transferred TO	-168.793	46.24	-7,804.99	
	12/31	ENDING BALANCE				\$0.00
FIDELITY SELECT BIOTECHNOLOGY	1/1	BEGINNING BALANCE	351.937	14.93		\$5,254.42
	8/17	Transferred TO	-351.937	14.09	-4,958.79	
	12/31	ENDING BALANCE				\$0.00
Additions	1/1	BEGINNING BALANCE	44.903	51.48		\$2,311.61
	8/17	Transferred TO	-44.903	49.92	-2,241.58	
	12/31	ENDING BALANCE				\$0.00
8/10 CHECK RECEIVED		Amount				
		\$11,861.26				
		Total				\$11,861.26

Additional Information About Your Annual Investment Report

A copy of your Annual Investment Report is available to:
SCHNEIDER, SCHECTER & YOSS PC

BARBARA ROCKMORE

PENSION INNOVATIONS/CONSULTING

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Your 2004 Fidelity Investment Report

Your year-end Fidelity Investment Report summarizes activity in your Fidelity account(s) for the past year. This report makes it easier for you to prepare your taxes and to assess whether your investments still suit your needs. This is not a tax form. Do not file this form with your tax return. It does not replace tax forms you will receive such as IRS Form 1099 or Form 5498. Please refer to the instructions on each tax form for reporting tax information to the IRS. Under separate cover you will receive the following tax forms if you had specific types of activity in your account(s):

- Form 1099-DIV if you own a non-retirement account and received dividends, capital gain distributions, or other reportable distributions;
- Form 1099-B if you own a non-retirement account and redeemed or exchanged shares from a stock or bond mutual fund, or if you sold individual securities;
- Form 1099-INT if you own a non-retirement account and received taxable interest payments;
- Form 1099-OID if you own a non-retirement account and held certain individual bonds originally issued at a discount;
- Form 1099-MISC if you received royalty payments and/or certain substitute payments, such as store in lieu of dividends and tax-exempt interest;
- Form 1099-R if you took a distribution from a retirement account or recharacterized an IRA contribution;

Your Asset Allocation

Asset allocation is a method of diversifying your investments among asset classes (e.g., stocks, bonds, short-term instruments). We believe that you should use asset allocation principles to create a portfolio that helps meet your needs and that you should review your portfolio of investments at least once a year to help you decide if it still suits your needs. Current Allocation: To help you determine your current asset allocation, we are providing a snapshot of your Fidelity asset mix. We sorted your Fidelity holdings into four asset categories: Stocks, Bonds, Short-Term Instruments, and Non-Classified. The following table summarizes the representation of individual holdings in your asset allocation pie chart:

ASSET CATEGORY

TYPES OF INVESTMENTS

- Fidelity and non-Fidelity funds that invest primarily in stocks
- Individual stocks
- American Depositary Receipts (ADRs)

Bonds

- Fidelity and non-Fidelity funds that invest primarily in bonds
- Individual bonds with at least 1 year to maturity
- CDs with at least 1 year to maturity

Short-Term Instruments

- Fidelity and non-Fidelity money market funds
- Bankers Acceptances and Commercial Paper
- CDs with less than 1 year until maturity
- Individual bonds with less than 1 year until maturity

Non-Classified

- Non-Fidelity funds not classified as primarily investing in one asset class (stock, bond, or short-term), included in this group are convertible securities funds, balanced income funds, flexible portfolio funds, and balanced funds.
- Non-Fidelity funds not classified as stock, bond, or short-term at the time we generated this report
- Practical metals (bullion, coins)
- Options
- Warrants and Rights
- HETs, UHs, and Limited Partnerships

Some Fidelity mutual funds ("blended funds") invest a significant amount of their portfolios in more than one asset class. The following funds are apportioned across asset classes based on their neutral mix, which represents the way the Funds' investments will generally be allocated. The mix may vary based on the current outlook for different markets. If you own any of the following funds, as of September 30, 2004, your assets in the fund were allocated as follows:

Fidelity Asset Manager	53% stocks, 32% bonds, 15% short-term
Fidelity Asset Manager: Aggressive	57% stocks, 32% bonds, 15% short-term
Fidelity Asset Manager: Growth	74% stocks, 16% bonds, 10% short-term
Fidelity Asset Manager: Income	25% stocks, 43% bonds, 32% short-term
Fidelity Balanced Fund	68% stocks, 31% bonds, 1% convertibles
Fidelity Fund for Growth	63% stocks, 31% bonds, 1% convertibles, 5% short-term
Fidelity Four-in-One Index Fund	55.0% S&P500, 15.4% S&P400, 15.4% S&P600, 14.2% S&P700
Fidelity 500 Index Fund	55.0% S&P500, 15.4% S&P400, 15.4% S&P600, 14.2% S&P700

- Form 5498 If you have a Fidelity IRA, Form 5498 reports contributions and the year-end fair market value of your Traditional IRA, Roth IRA, Rollover IRA, SEP-IRA, or SIMPLE-IRA.

Please keep this report with your permanent records for future reference. If you request a reprint of your statement, the disclosure information provided with your report may or may not be the same as the disclosure information provided with your original statement. If you have a question about your account, call us 24 hours a day, 7 days a week at the phone number provided on the front of this report. There is a maintenance period when some services may not be available.

Additional investments to Your Account with Fidelity Investments: For deposits in mutual fund non-retirement accounts make checks payable to the specific mutual fund and for mutual fund retirement accounts make checks payable to Fidelity Investments. For deposits in brokerage accounts (all account types) make checks payable to National Financial Services LLC (NFS). Please include your account number on your check and for deposits in retirement accounts designate whether your contribution is for the current or prior year in the memo field. Mail checks to: Fidelity Investments, P.O. Box 770001, Cincinnati, OH 45277-0001.

Extended Market Index Fund, 15.2%, Spartan® International Index Fund, and 14.4%, Fidelity U.S. Bond Index Fund

The percentages listed below represent each of the following funds' actual allocation as of September 30, 2004:

Fidelity Freedom 2000 Fund	26% stock funds, 42% bond funds, 32% money market funds
Fidelity Freedom 2010 Fund	47% stock funds, 44% bond funds, 9% money market funds
Fidelity Freedom 2020 Fund	70% stock funds, 30% bond funds, 0% money market funds
Fidelity Freedom 2030 Fund	82% stock funds, 18% bond funds, 0% money market funds
Fidelity Freedom 2040 Fund	89% stock funds, 11% bond funds, 0% money market funds
Fidelity Freedom Income Fund	21% stock funds, 40% bond funds, 39% money market funds

Fidelity Freedom Funds are managed by Strategic Advisers, Inc., a registered investment adviser and a Fidelity Investments Company. Lpper, Inc., categorizes non-Fidelity funds into their broad asset allocation categories: stock, bond, short-term and non-classified. This is one way of classifying your Fidelity holdings; some investors may choose to use their own classifications when evaluating their asset allocation.

For ease of reading, asset allocation percentages are rounded to the nearest whole number.

is Your Asset Allocation Right for You? To determine the asset allocation strategy that may be right for you, consider your current financial situation, specific investment goals, time frame, and personal tolerance for risk. As your goals and needs change over time, you should adjust your plan accordingly. Fidelity has a number of tools to help you determine the allocation that may best match your goals. Please visit Fidelity.com or call a Fidelity representative if you would like this information. Fidelity Distributors Corporation (FDC) is the general distribution agent for Fidelity funds. Fidelity Brokerage Services LLC (FBS) provides brokerage services and clears all transactions through its affiliate, National Financial Services LLC (NFS). NFS carries all brokerage accounts. Direct inquiries about positions or balances in your brokerage account to NFS at 800-844-6898. FBS and NFS are members of the NYSE and SIPC. FBS, registered service mark of FMR Corp. and a service of FBS. Upon written request, Fidelity will mail an NFS financial statement, which is also available for inspection at its office. Fidelity Portfolio Advisory Services is a service of Strategic Advisers, Inc., a registered investment adviser and a Fidelity Investments Company. Fidelity Private Portfolio Service may be offered through the following Fidelity Investments Companies: Strategic Advisers, Inc., Fidelity Personal Trust Company, FSB (FPT), a federal savings bank and a registered investment adviser or Fidelity Management Trust Company (FMT). Non-deposit investment products and trust services offered through FPT and FMT and their affiliates are not insured or guaranteed by the Federal Deposit Insurance Corporation or any other government agency, are not obligations of any bank, are subject to risk, including possible loss of principal. These services provide discretionary money management for a fee. Brokerage services provided by FBS, Custody and other services provided by NFS. Insurance products are distributed by FBS. Fidelity Insurance Agency, Inc., and Fidelity Investments Insurance Agency of Texas, Inc. Mutual fund shares, other securities held in your account, and insurance products are neither deposits nor obligations of, nor endorsed nor guaranteed by any bank or other depositing institution, nor are they federally insured by the FDIC or any other agency. Fidelity Investments (with pyramid logo) is a trademark of FMR Corp. Fidelity Portfolio Advisory Services and Fidelity Private Portfolio Services are service marks of FMR Corp.